

USSN: 10/057,852
Atty. Docket No.: 2002B012
Amdt. dated March 17, 2004
Reply to Non-Compliant 1.121 dated March 2, 2004

REMARKS

Claims 1-7, 11-17, and 21-26 are pending. Claims 21-26 are new. Claims 1-7 and 11-17 were rejected in the Office Action under 35 U.S.C. Section 102 and 103. Each of the rejections will be addressed below in the order presented in the Office Action.

Rejections Under 35 U.S.C. Section 102

Paragraphs 2 and 3 of the Office Action reject claims 1-7 under Section 102 as being anticipated by U.S. Patent 5,876,857 to Schuhmann.

This Rejection relies upon Schuhmann's disclosure at column 3, lines 15-41. Specifically, the essence of the rejection is that Schuhmann discloses a coextruded film label structure having a core layer including at least 50% polypropylene and the "balance" of an ethylene-containing polyolefin. Claim 1 recites that the core layer includes approximately 40-80% of polypropylene and approximately 20-60% of an ethylene-containing polyolefin. However, a careful review of Schuhmann reveals no disclosure of inclusion of an ethylene-containing polyolefin in the core layer in the range of approximately 20-60%. At column 3, lines 42-49, Schuhmann discloses that ethylene-containing polyolefins should not be present in an amount exceeding 15 wt. % of the core layer.

The Office Action apparently concludes that an indication that at least 50 wt. % of the core layer should be polypropylene is an indication that up to 50 wt. %, the "balance" of the core layer, may be an ethylene-containing polyolefin. This conclusion ignores the remainder of Schuhmann's disclosure indicating that components other than polypropylene and ethylene-containing polymers are included in the core. Column 4, lines 12-31, indicates the core layer may also include 5-20 wt. % of a filler. Additionally, lines 42 of column 4 through line 12 of column 5 indicate that the core layer may also contain 1-9 wt. % of titanium dioxide. Finally, column 5, lines 22-24, reveals that the core layer may also contain 1-30 wt. % of a lower molecular weight resin that is not an ethylene-containing polyolefin. Therefore, an indication that the core may contain 50 wt. % polypropylene does not mean that the "balance" of the core is an ethylene-containing polyolefin. There are many other components that may be included in

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the core layer. This conclusion is bolstered by Schuhmann's examples that disclose films having a core layer 88% polypropylene and 12% calcium carbonate.

Most compelling in this regard, as noted above, is Schuhmann's express teaching that the core layer should not contain more than 15 wt. % of an ethylene-containing polyolefin. Therefore, it is respectfully submitted that Schuhmann does not disclose a film with a core layer containing 50 wt. % polypropylene and the "balance" of an ethylene-containing polyolefin. For this reason alone, Schuhmann does not anticipate claims 1-7 under Section 102. It is well settled that an anticipation rejection requires the teaching of every element of a rejected claim in a single reference.

Rejections Under 35 U.S.C. Section 103

Claims 1-7 and 11-17 are rejected in paragraphs 4 and 5 of the Office Action under Section 103 as being unpatentable over Schuhmann in view of U.S. Patent 5,585,193 to Josephy.

Rejection of these claims relies upon Schuhmann as applied to claims 1-7 under the Section 102 rejections discussed above. For the reasons discussed with respect to the Section 102 rejections, it is respectfully submitted that Schuhmann also does not suggest a film having a core layer including approximately 20-60% of an ethylene-containing polyolefin. Indeed, as discussed above, Schuhmann expressly teaches away from such a film composition by advising that the ethylene-containing polyolefin should not exceed 15 wt. % in the core layer. Therefore, it would not be obvious, from the teachings of Schuhmann, to produce the claimed facestock film having a core layer with an ethylene-containing polyolefin content of approximately 20-60%.

Section 132 Declaration

The Examiner's indication in paragraph 6 of the Office Action that the Section 132 Declaration filed on August 25, 2003, is sufficient is noted and appreciated.

Allowable Subject Matter

The indication in paragraph 7 of the Office Action that claims 8-10 and 18-20 contain allowable subject matter but are objected to as being dependent upon rejected claims is

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appreciated. With this Response, these claims are rewritten as claims 21-26 to remove dependencies on the rejected claims. Therefore, it is believed that these claims are in condition for allowance. It is noted that claims 21 and 24 include language not found in claims 8 and 18. The new language provides an express antecedent basis for the outer and inner surfaces of the skin layers. This language is added for clarification purposes only.

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Conclusion

Consistent with the foregoing, claims 1-7, 11-17, and 21-26 are believed to be in condition for allowance. Consideration of these claims with an early Notice of Allowance is respectfully requested.

It is believed that this submission is fully responsive to the outstanding Office Action. However, should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number listed below so that all matters may be expeditiously resolved.

Respectfully submitted,

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